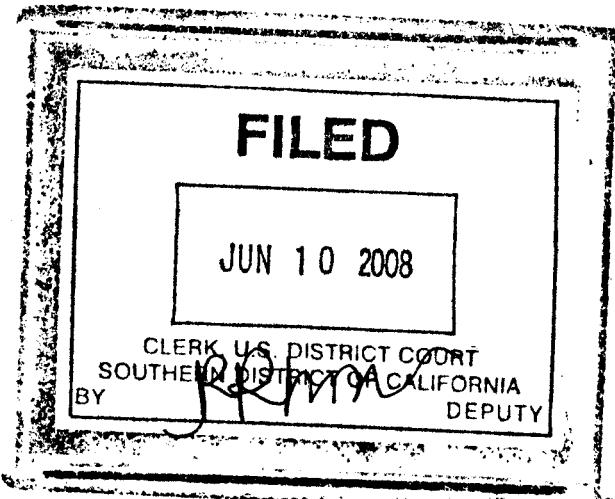


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UNITED STATES OF AMERICA



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Magistrate Case No. 08MJ1630

Plaintiff,

Magistrate Case No. 08MJ1630

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**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

v.

MONICA PAYAN

MONICA MARY,

(Pre-Indictment Fast-Track Program)

6 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
7 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Caroline
8 P. Han, Assistant United States Attorney, and defendant Monica Yvette Payan, by and through and
9 with the advice and consent of defense counsel, Gregory Obenauer, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
§ 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

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1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
 2 provide the signed, original plea agreement to the Government not later than five business days
 3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
 5 before **June 26, 2008**.

6 4. The material witness, Jovita Rodriguez-Lapa, in this case:

7 a. Is an alien with no lawful right to enter or remain in the United States;
 8 b. Entered or attempted to enter the United States illegally on or about May 23,
 9 2008;

10 c. Was found in a vehicle driven by the defendant, Monica Payan, at the San
 11 Ysidro, California Port of Entry (POE) and that defendant knew or acted in reckless disregard of the
 12 fact that they were aliens with no lawful right to enter or remain in the United States;

13 d. Was paying an unknown amount of money to others to be brought into the
 14 United States illegally and/or transported illegally to their destination therein; and,

15 e. May be released and remanded immediately to the Department of Homeland
 16 Security for return to their country of origin.

17 5. After the material witnesses are ordered released by the Court pursuant to this
 18 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
 19 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
 20 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

21 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
 22 substantive evidence;

23 b. The United States may elicit hearsay testimony from arresting agents
 24 regarding any statements made by the material witness(es) provided in discovery, and such testimony
 25 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
 26 of (an) unavailable witness(es); and,

27 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
 28 Stipulation of Fact and Joint Motion for Release of
 Material Witness(es) And Order Thereon in
 United States v. Monica Payan

1 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
2 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
3 waives the right to confront and cross-examine the material witness(es) in this case.

4 6. By signing this stipulation and joint motion, defendant certifies that defendant has
5 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
6 further that defendant has discussed the terms of this stipulation and joint motion with defense
7 counsel and fully understands its meaning and effect.

8 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
9 immediate release and remand of the above-named material witness(es) to the Department of
10 Homeland Security for return to their country of origin.

11 It is STIPULATED AND AGREED this date.

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Respectfully submitted,

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Dated: 6/10/08.

Dated: 6/10/08.

Dated: 6/10/08.

KAREN P. HEWITT

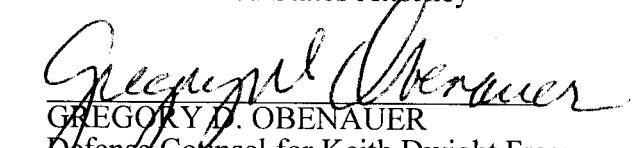
United States Attorney



CAROLINE P. HAN
Assistant United States Attorney

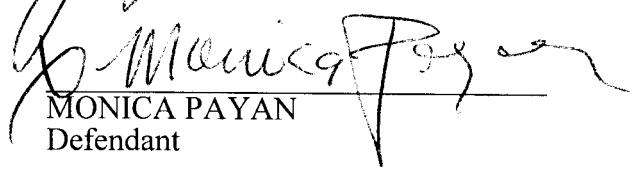
GREGORY D. OBENAUER

Defense Counsel for Keith Dwight Freeman



MONICA PAYAN

Defendant



Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in

United States v. Monica Payan

ORDER

Upon joint application and motion of the parties, and for good cause shown,
THE STIPULATION is admitted into evidence, and,
IT IS ORDERED that the above-named material witness(es) be released and remanded
forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated:

6/10/08



United States Magistrate Judge